

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

| | | |
|---|---|------------------------|
| YOLANDA ESPINO, as Special Administrator of |) | |
| the Estate of ITZAVELA TILAPA, Deceased, |) | |
| |) | |
| Plaintiff, |) | |
| |) | No. 14-cv-2516 |
| v. |) | Judge Virginia Kendall |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Defendant. |) | |
| |) | |
| |) | |

**PLAINTIFF'S MOTION FOR APPROVAL OF SETTLEMENT
AND DISTRIBUTION OF PROCEEDS**

Plaintiff, YOLANDA ESPINO, as Special Administrator of the Estate of ITZAVELA TILAPA, deceased, through her attorneys, pursuant to The Illinois Probate Act of 1975, 755 ILCS 5/2-1 (d), Rule 6.4 © of the Rules of the Circuit Court of Cook County, Illinois and the Illinois Wrongful Death Act, 740 ILCS 180/2.1, moves the Court for approval of the settlement agreement entered into with defendant, United States of America, and for approval of the distribution of proceeds. In support thereof, plaintiff states as follows:

1. Plaintiff filed this medical negligence action pursuant to the Illinois Wrongful Death Act seeking damages for the loss of her near-term baby, Itzavela Tilapa, who was delivered stillborn on July 5, 2011 at Mt. Sinai Medical Center.

2. On October 5, 2016, the plaintiff settled her case with Mt. Sinai Medical Center and Dr. Yocoima Plaza, M.D. and the case continued against defendant, United States of America. On January 5, 2017, the defendant, United States of America, agreed to settle their cause with plaintiff during a settlement conference with Magistrate Judge Susan E. Cox.

3. The settlement agreement with the United States of America provides for a cash payment of \$700,000.00, exclusive on any set off.

4. Plaintiff requests that the Court approve the Proposed Order attached hereto finding that the settlement of \$700,000.00 with the United States of America is fair and reasonable and further approve of the distribution of the proceeds as follows:

- a. Attorney's fees in the amount of \$175,000.00 (25% of 700,000.00), shall be allowed.
- b. Legal costs to date in the amount of \$ 3,955.41 shall be paid in full from the settlement proceeds.
- c. Pursuant to 755 ILCS 5/2-1 (d), the remainder shall be distributed to the decedent's surviving parents and minor siblings. In addition, pursuant to Rule 6.4 (c) of the Rules of the Circuit Court of Cook County, Illinois, if the individual amounts distributable to the minor surviving siblings *exceeds* \$10,000.00, the amounts shall be paid only to a representative of the minors appointed by the Circuit Court of Cook County, Probate Division and upon presentation of an order entered in the Probate Division approving the bond or other security required in connection therewith.

WHEREFORE, Plaintiff, YOLANDA ESPINO, moves this Court for approval of the settlement agreement entered into with defendant, United States of America, and for approval of the distribution of proceeds as detailed herein.

Respectfully submitted,
/s/ Edward J. Santiago
One of Plaintiff's Attorneys

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| Defendant. |) | |
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**ORDER APPROVING SETTLEMENT
AND DISTRIBUTION OF PROCEEDS**

THIS MATTER COMING TO BE HEARD BEFORE THE COURT on the motion of the plaintiff, Yolanda Espino, as Special Administrator of the Estate of ITZAVELA TILAPA, deceased, for approval of the settlement agreement with defendant, United States of America, and distribution of proceeds, pursuant to this Court's ancillary jurisdiction, The Illinois Probate Act of 1975, 755 ILCS 5/2-1 (d), Rule 6.4 (c) of the Rules of the Circuit Court of Cook county, Illinois and the Illinois Wrongful Death Act, 740 ILCS 180/2.1, the Court hereby grants the plaintiff's motion and finds as follows:

1. The settlement of \$700,000.00 with the United States of America is fair and reasonable.
2. Attorney's fees in the amount of \$175,000.00 (25% of \$700,000.00), is allowed and shall be paid to plaintiff's attorneys.
3. Legal costs to date in the amount of \$ 3,955.41 shall be paid in full from the settlement proceeds.
4. Pursuant to 755 ILCS 5/2-1 (d), the balance of the settlement proceeds shall be

distributed as provided by law to the decedent's surviving parents and siblings.

5. Any individual amounts distributable to the minor surviving siblings *exceeding* \$10,000.00, shall be paid only to a representative of the minors appointed by the Circuit Court of Cook County, Probate Division and upon presentation of an order entered in the Probate Division approving the bond or other security required in connection therewith.

ENTERED:

JUDGE

DATE: